

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

AMANDA FIKES, et al.

PLAINTIFFS

V.

CAUSE NO.: 1:07CV61-SA-JAD

THOMAS PRINGLE and DITI, Inc.,

DEFENDANTS

ORDER DISMISSING CASE

This case was filed on March 20, 2007. After a series of attempts to serve process on the defendants, the Clerk entered default on the last remaining defendant on August 8, 2009. A hearing on Plaintiffs' Motion for Default Judgment was held on September 15, 2009. Plaintiff Lester (Paul) Oatsvall did not appear at that hearing. The Court made clear at the hearing that damages would not be awarded to Lester (Paul) Oatsvall as he failed to appear. His counsel informed the Court that he was not in contact with his client, and that if further reasonable attempts to get in touch with Oatsvall failed, he would be forced to withdraw as Oatsvall's counsel.

Thereafter, Oatsvall's attorney filed a Motion to Withdraw contending that he could not adequately represent Oatsvall because he failed to remain in contact. On December 23, 2009, this Court allowed the withdrawal of D. Kirk Tharp as attorney of record for Lester (Paul) Oatsvall. In that Order, the Court allowed Oatsvall thirty days to employ new counsel or notify the Court of his intent to proceed pro se. Further, that Court warned that "failure to comply with this Order may lead to dismissal of this case." The Order was mailed by the Court and by Tharp to Oatsvall. No further action has been taken in this case.

Plaintiff Lester (Paul) Oatsvall has failed to remain in contact with his counsel, failed to appear at a hearing, and failed to comply with an explicit Court order. Thus, pursuant to Federal Rule of Civil Procedure 41(b), this case is DISMISSED for failure to prosecute.

SO ORDERED, this the 3rd day of February, 2010.

/s/ Sharion Aycock
U.S. DISTRICT JUDGE